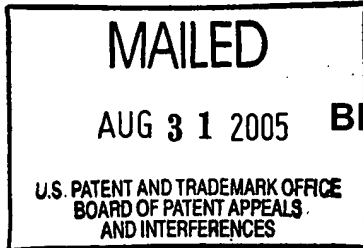


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE



**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte JOHANNES H.J.M. KELDERS DRUNEN, BRIAN A. VULPITTA
and TIMOTHY S. FERGUSON

Appeal No. 2005-1840
Application No. 09/992,861

ON BRIEF

Before PAK, WARREN, and KRATZ, Administrative Patent Judges.
PAK, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1, 3 through 8 and 10 through 20, which are all of the claims pending in the above-identified application.

APPEALED SUBJECT MATTER

The subject matter on appeal is directed to a dispenser for a roll of adhesive tapes.

See the specification, page 1. Details of the appealed subject matter are recited in representative claims 1, 12 and 16 which are reproduced below:

1. An apparatus for dispensing a roll of material comprising an enclosable housing having a dispensing end and a hinge end and comprising

(a) a roll holding piece for holding a roll of material, the roll holding piece having a bottom, two opposing sidewalls, and a discharge end;

(b) a cover piece, the cover piece having a top, two opposing side walls, and a discharge end, wherein the top of the cover piece has at least one depression for placement of a finger;

(c) a hinge assembly for joining the roll holding piece and the cover piece at the hinge end, wherein the hinge assembly permits opening of the housing while the cover piece and roll holding piece remain connected by the hinge assembly;

(d) an applicator located proximate to the dispensing end for applying material to a substrate;

(e) a discharge opening for the material located proximate to the dispensing end; and

(f) a cutting member located proximate to the dispensing end for cutting the material.

12. An apparatus for dispensing a roll of material comprising an enclosable housing having a dispensing end and a hinge end and comprising

(a) a roll holding piece for holding a roll of material that has a bottom, two opposing sidewalls, and a discharge end;

(b) a cover piece that has a top, two opposing sidewalls and a discharge end, wherein the top of the cover piece has at least one depression for placement of a finger;

(c) a hinge assembly for joining the roll holding piece and cover piece at the hinge end, wherein the hinge assembly permits opening of the housing while the cover piece and roll holding piece remain connected by the hinge assembly;

(d) a latching assembly having opposing latching shoulders extending from the roll holding piece for securing the cover piece to the roll holding piece;

(e) an applicator located on the cover piece and proximate to the discharge end of the cover piece for applying material to a substrate;

(f) a discharge opening for the material located between the applicator and the discharge end of the roll holding piece; and

(g) a cutting member located on the cover piece proximate to the discharge end of the cover piece for cutting the material.

16. A method of dispensing a roll of material comprising:

(a) providing an apparatus for dispensing a roll of material wherein the apparatus comprises an enclosable housing having a dispensing end and a hinge end and comprising

(i) a roll holding place for holding a roll of material and having a discharge end;

(ii) a cover piece that has a top, two opposing sidewalls, and a discharge end, wherein the top of the cover piece has at least one depression for placement of a finger;

(iii) a hinge assembly for joining the roll holding piece and cover piece at the hinge end, wherein the hinge assembly permits opening of the housing while the cover piece and roll holding piece remain connected by the hinge assembly;

(iv) an applicator located proximate to the dispensing end;

(v) a discharge opening for the material located proximate to the dispensing end; and

(vi) a cutting member located proximate to the dispensing end;

- (b) mounting a roll of material in the roll holding piece of the housing; and
- (c) applying the material to a substrate by pressing the material onto a substrate using the applicator.

REFERENCE

The prior art reference relied upon by the examiner in support of the Sections 102 and 103 rejections before us are:

Taylor	2,584,065	Jan. 29, 1952
Link	3,895,059	Jul. 15, 1975

REJECTION

Claims 1, 3 through 8, 10, 12 through 14 and 16 through 20 stand rejected 35 U.S.C. § 102(b) as anticipated by the disclosure of Taylor. Claims 11 and 15 stand rejected 35 U.S.C. § 103(a) as unpatentable over the combined disclosures of Taylor and Link.

OPINION

We have carefully reviewed the claims, specification and prior art, including all of the arguments advanced by both the examiner and the appellants in support of their respective positions. This review has led us to conclude that the examiner's Sections 102(b) and 103(a) rejections are not well founded. Accordingly, we reverse the examiner's rejections for essentially the reasons set forth in the Brief and the Reply Brief. We add the following for emphasis and completeness.

There is no dispute that Taylor teaches an adhesive tape dispenser corresponding essentially to the adhesive tape dispenser recited in claims 1, 12 and 16, except for the claimed “at least one depression for placement of a finger” located on the top of a cover piece. According to the examiner (Answer, page 3), the claimed “at least one depression for placement of a finger” embraces an open area 32 (hole) taught by Taylor in support of his rejections.

Thus, the question in this case is whether the claimed “at least one depression for placement of a finger,” as properly interpreted, encompasses an opening area 32 taught by Taylor. On this record, we answer this question in the negative.

As is apparent from page 364 of *Webster's II New Riverside University Dictionary* (1994) (attached to this decision), the term “depression” is defined as “[a]n area sunk below its surroundings.” Consistent with this ordinary meaning in the dictionary, the specification shows “depression for placement of a finger” as a surface (78) sunken or depressed below the surrounding top surface, which is appropriately shaped and sized for finger placement. See the specification, page 10, with Figure 3. Thus, when the term “at least one depression for placement of a finger” is properly interpreted **consistent** with the specification as we must, we are constrained to agree with the appellants that the claimed depression for finger placement does not include an opening area (hole) taught by Taylor.

In view of the foregoing, we are constrained to reverse the examiner's decision rejecting claims 1, 3 through 8, 10, 12 through 14 and 16 through 20 under 35 U.S.C. § 102(b) and claims 11 and 15 under 35 U.S.C. § 103(a).

BOARD OF PATENT
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